

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE**

TruePosition, Inc., )  
                          )  
                          )  
Plaintiff/            )  
Counterclaim-Defendant, )  
                          )  
                          )      **Civil Action No. 05-747-SLR**  
v.                      )  
                          )  
Andrew Corporation, )  
                          )  
                          )  
Defendant/            )  
Counterclaim-Plaintiff. )  
                          )  
\_\_\_\_\_

**TRUEPOSITION'S MOTION  
FOR PARTIAL SUMMARY JUDGMENT THAT  
ANDREW CANNOT PROVE ITS CLAIMS OF INVALIDITY**

Plaintiff/Counterclaim-Defendant TruePosition, Inc. ("TruePosition") hereby respectfully moves, under Rule 56 of the Federal Rules of Civil Procedure, for the entry of summary judgment in its favor dismissing Defendant/Counterclaim-Plaintiff Andrew Corporation's First Affirmative Defense and Counterclaim I to the extent that each asserts that U.S. Patent No. 5,327,144 and "its claims are invalid...under one or more Sections of Title 35 of the United States Code, including §§ 101, 102, 103, and/or 112..." (D.I. 48 at p. 9 & p. 11, ¶ 9).

Grounds in support of this motion, showing a lack of genuine issues of material fact relating to invalidity, are set forth in the accompanying memorandum in support of this motion, which is incorporated herein by reference.

Respectfully submitted,

DATED: January 31, 2007

By: /s/ James D. Heisman  
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Andrew Corporation, )  
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Defendant/            )  
Counterclaim-Plaintiff. )  
                          )  
                          )  
                          )  
**ORDER**

AND NOW, this \_\_\_\_\_ day of \_\_\_\_\_, 2007,  
upon consideration of TruePosition's Motion For Partial Summary Judgment that  
Andrew Cannot Prove Its Claims of Invalidity, together with the supporting  
memorandum and all opposing papers thereto, it is hereby ORDERED that  
TruePosition's motion is GRANTED.

It is FURTHER ORDERED that, pursuant to Rule 56 of the Federal Rules of  
Civil Procedure, the First Affirmative Defense and Counterclaim I filed by  
Defendant/Counterclaim-Plaintiff Andrew Corporation (D.I. 48 at p. 9 & p. 11, ¶  
9) are hereby dismissed to the extent they plead invalidity.

BY THE COURT:

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Sue. L. Robinson  
United States District Judge

**CERTIFICATE OF SERVICE**

I, James D. Heisman, hereby certify that on this 31<sup>st</sup> day of January, 2007, I caused a true and correct copy of the foregoing **TruePosition's Motion for Partial Summary Judgment that Andrew Cannot Provide its Claims of Invalidity** upon the following individuals in the manner indicated below:

***Via hand-delivery***

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**/s/ James D. Heisman**

James D. Heisman (# 2746)